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Cochise Broadcasting LLC
P.O. Box 11060
Jackson, WY 83002

Re: KZXQ(FM), Reserve, NM
Facility ID No. 78273
Cochise Broadcasting LLC
File No. BPH-20071025ACM

Dear Applicant:

This refers to the community of license application, amended on February 2, 2010, filed by Cochise Broadcast, LLC ("Cochise Broadcast"), licensee of FM Station KZXQ, Reserve, New Mexico, requesting to modify the license for FM Station KZXQ, Channel 283A, Reserve, New Mexico, to Channel 283C1, Concho, Arizona, as its first local service.

The application was filed pursuant to Section 73.3573(g) of the Commission's rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties an opportunity to file a competing expression of interest. Any reallocation proposal must result in a preferential arrangement of allotments.¹ We make this determination using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.² This application would provide a first local transmission service to Concho under Priority (3).

We cannot approve the proposed city of license modification of FM Station KZXQ from Reserve, New Mexico, to Concho, Arizona. Specifically, we cannot make the requisite finding that this reallocation would result in a preferential arrangement of allotments as required by *Community of License*. One must compare the existing arrangement of allotments versus the proposed arrangement of allotments. In this regard, the reallocation of FM Station KZXQ to Concho would result in 580 persons receiving zero aural services, Priority (1) and 217 persons receiving one aural service, Priority (2). As such, a first local service at Concho (pop. 1,925 persons) under Priority (3) is not a preferential arrangement of allotments since the retention of FM Station KZXQ at Reserve triggers both Priorities

¹ See *Modification of FM and TV Authorizations to Specify a New Community of License* ("Community of License"), Report and Order, 4 FCC Rcd 4870 (1989), *recon. granted in part*, Memorandum Opinion and Order, 5 FCC Rcd 7094 (1990).

² *Revision of FM Assignment Policies and Procedures*, Second Report and Order, 90 FCC 2d 88 (1988). The FM allotment priorities are: (1) First fulltime aural service, (2) Second fulltime aural service, (3) First local service and (4) Other public interest matters. Co-equal weight is given to Priorities (2) and (3).

(1) and (2). We note that consistent with *Seabrook*,³ we find that 217 persons receiving one aural service under Priority (2) is considered *de minimis* when compare against a first local service at Concho (pop. 1,925 persons). However, 580 persons losing their only aural service, triggering Priority (1) is not considered *de minimis*. To this end, *Seabrook* is distinguishable because we are dealing with a higher allotment priority, Priority (1), first full-time reception service.⁴ Thus, in comparing a first local service at Concho (pop. 1,925 persons) under Priority (3) versus 580 persons receiving a first full-time reception service under Priority (1), the retention of Station KZZQ at Reserve would be the preferred allotment because it would allow 580 persons to continue receiving their first full-time reception service.

Pursuant to 47 C.F.R. § 73.3522, "... an applicant whose application is found to meet the minimum filing requirements but nevertheless is not complete and acceptable shall have the opportunity in the 30-day period specified in the FCC staff's deficiency letter to correct all deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff." Additionally, 47 C.F.R. § 73.3564 states that, "[a]pplications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for corrective amendment." See Appendix B in the Report and Order in MM Docket No. 91-347. This letter constitutes your opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3522.

Further action on the application will be withheld for a period of thirty (30) days from the date of this letter to provide the applicant an opportunity to respond. Failure to correct all tender and acceptance defects within 30 days from the date of this letter will result in the dismissal of the application with no further opportunity for corrective amendment pursuant to 47 C.F.R. § 73.3564.

Sincerely,



Edna V. Prado
Supervisory Engineer
Audio Division
Media Bureau

cc: Susan A. Marshall, Esq.
Eric C. Swanson, P.E.

³ *Seabrook, Texas et al.*, Memorandum Opinion and Order, 10 FCC Rcd 9360 (1995)(finding that a second aural service to 455 persons was *de minimis* and did not trigger Priority (2))("Seabrook").

⁴ *Cheyenne, Wyoming and Gering, Nebraska*, Report and Order, 15 FCC Rcd 7528 (MMB 2000).